

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

CHARLES P. VACLAVIK, D.O.,

RESPONDENT.

FINAL DECISION
AND ORDER
LS#0904161 MED

Division of Enforcement Case Nos. 08 MED 092, 09 MED 136

The parties to this action for the purposes of Wis. §227.44(5). §227.44(5). Stat. §227.53 are:

Charles P. Vaclavik, D.O.
865 Reddy Drive
Platteville, WI 53818

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Medical Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

A disciplinary proceeding was commenced in case number 08 MED 092 by the filing of a Notice of Hearing and Complaint with the Medical Examining Board on April 16, 2009. Prior to the hearing on the Complaint, the Department received the complaint in case number 09 MED 136. Shortly thereafter the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of both matters, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Charles P. Vaclavik, D.O., (DOB 09/10/1940) is duly licensed as a physician in the State of Wisconsin (license #21-32625). This license was first granted on August 22, 1991. Respondent's registration pursuant to Wis. Stat. §448.07, is due to expire on October 31, 2009.

2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 865 Reddy Drive, Platteville, Wisconsin, 53818.

08 MED 092

3. Nothing should be construed regarding the truthfulness or untruthfulness of these allegations by virtue of this stipulation or by entry of this Order by the Department as they are allegations only.

4. Respondent had been Patient V.B.'s primary physician since 1996. During that time, Patient V.B. suffered a couple of minor strokes. Respondent referred her for an arteriogram. During the arteriogram, Patient V.B. suffered a major stroke that temporarily paralyzed her left side. Patient V.B. was ultimately referred to Mayo Clinic and was diagnosed with possible cerebral arteritis and a slightly decreased protein S. In December 1997, the Mayo clinic records indicate that Patient V.B. should continue on Coumadin anticoagulation on a long term basis.

5. Respondent's records indicate a plan to keep patient V.B. on Coumadin for the rest of her life and he planned to do so unless the risk of hemorrhage was determined to be greater than the benefit from the Coumadin.

6. Patient V.B. expressed her desire on numerous office visits to stop taking the Coumadin. For instance, at the July 29, 2004, visit, Respondent charted "The question of whether we should discontinue the Warfarin at this time has been raised on multiple visits. Our present decision is to continue on them indefinitely and, as long as she does not have any problems with bleeding, we would probably continue to do so."

7. On December 17, 2004, Patient V.B. reported to Respondent a nose bleed which was difficult to control. On the office visit of February 21, 2006, Patient V.B. reported falling on the ice with a fracture to the thoracic spine. These events raised concern that the risk of hemorrhage outweighed any benefit from the Coumadin.

8. On May 18, 2006, Respondent's notes indicate that he was considering discontinuing Coumadin based upon the fact that the risk of hemorrhage outweighed its benefit. He offered the patient a second opinion at Mayo regarding the recommendation to stop Coumadin and charted:

"We will continue the Warfarin but I am going to do a sed rate and C-reactive protein on her next INR draw in one month and if the sed rate and C-reactive proteins are normal, I am going to suggest that we stop the Warfarin, that she has no arteritis present in her body, and therefore the risk of hemorrhage is greater than its benefit and we should probably discontinue it. I told her that if she has any question about whether it should be discontinued we could send her back to the Mayo physician. . ."

9. On June 20, 2006, Coumadin was discontinued.

10. On April 21, 2007, Patient V.B. suffered a stroke. She died on April 23, 2007, at the age of 73.

11. During the course of Respondent's treatment of Patient V.B., the clinic started to arbitrarily cull the medical chart based upon date only. The chart culling removed critical information from the chart including laboratory data and testing performed at outside medical facilities. At the time of the cessation of Coumadin, Respondent did not independently recall the patient's laboratory testing from outside facilities which had been performed in 1997. At the time of the cessation of Coumadin, the information regarding the protein S deficiency was available only on the face sheet of the chart which was maintained by the clinic. Respondent admitted he did not regularly rely on the face sheet as it was not kept current, but rather, relied on his own charting. Respondent admitted that the chart-culling resulted in his failing to consider the protein S deficiency at that time.

12. An independent Board Certified neurologist has reviewed the care and treatment provided by Respondent to Patient V.B. and the neurologist found no deviations from the accepted standard of medical care. In addition, the neurologist found that it could not be established to a reasonable degree of medical certainty that patient V.B.'s stroke was caused by the cessation of Coumadin.

13. A treating neurologist who evaluated Patient V.B. in 1997 and who provided care and treatment to Patient V.B. after she suffered the stroke in April 2007, charted the following in regard to the decision to stop the Coumadin:

She had some prior cerebrovascular problems in 1996 and was evaluated here ... [she] had 95% resolved any residual neurological deficits according to the family and had been quite stable for the past 10 years. She had been on Coumadin therapy for several years and this was withdrawn, but I believe it was 2-3 years

ago, having been stable for seven years, this was obviously the appropriate thing to do.

14. While the decision to stop the Coumadin was reasonable, it is the position of the Division of Enforcement that making the decision without considering the protein S deficiency was below minimum standards. Respondent has subsequently changed his practice to ensure that he maintains crucial patient data when charts have been arbitrarily culled by date.

09 MED 136

15. Nothing should be construed regarding the truthfulness or untruthfulness of these allegations by virtue of this stipulation or by entry of this Order by the Department as they are allegations only.

16. In or about September, 2007, the Medical Executive Committee of Southwest Health Center reviewed Respondent's admissions over a four month period, and alleged fault with three cases. The three cases were reviewed by an outside, independent physician whose findings for two of the cases were as follows:

Case 1

"While many physicians might have done a lumbar puncture the day of admit, I do not fault the [respondent] for waiting until the next day . . . The care provided seems adequate and appropriate to me."

Case 2

"While CSF findings suggest nonbacterial meningitis, this patient had received antibiotics prior to CSF testing which could alter results. [Respondent] displayed an abundance of caution in treating patient aggressively until cultures/tests returned. I would not find fault with this."

With respect to the third case, the outside reviewer found that most practitioners might have handled the case differently by starting the patient on an anticoagulant. However, the patient was also under the care of a surgeon who advised the respondent that anticoagulation was inappropriate. Despite the findings of the outside reviewer and the recommendations of the treating surgeon, the facility continued to selectively review charts. At no time were the privileges of Respondent restricted by the facility.

17. On or about October 2, 2008, the Committee reaffirmed its decision and continued the chart review. During the continued chart review, the only care the Committee found fault with involved overutilization of resources where the Committee alleged that the Respondent ordered too many tests on a patient with pneumonia.

18. At no time were the privileges of Respondent restricted by the facility.

19. On or about December 16, 2008, Respondent resigned from the medical staff

of Southwest Health Center, and shortly thereafter, moved his medical practice to California.

20. Respondent denies negligence. Respondent lives in California and no longer practices medicine in the State of Wisconsin, and stipulates to the resolution only for purposes of resolving this matter expediently and without the need for a hearing.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. §448.02, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. §227.44(5).

ORDER

IT IS ORDERED:

1. The stipulation of the parties is approved.
2. There have been no findings of any violations at this time and this Order does not constitute disciplinary action against Respondent's license.
3. Respondent's Wisconsin license registration pursuant to Wis. Stat. sec. 448.07 is due to expire on October, 31, 2009.
4. Respondent holds an active California medical license and is employed as a full time physician in California.
5. Respondent agrees not to practice medicine in the State of Wisconsin from the date of this order until October 31, 2009.
6. On October 31, 2009, Respondent's Wisconsin license status will change from active to inactive.
7. In the event that Respondent petitions the Board for re-registration in Wisconsin after October 31, 2009, the Board may require him to appear before it and prove, to the Board's satisfaction, his competence to practice medicine and surgery.
8. If Respondent believes that any Board order refusing to permit re-registration or imposing any limitation is inappropriate, Respondent may seek a class 1 hearing pursuant to §227.01(3)(a), Stats., in which the burden shall be on Respondent to show that Board's decision is arbitrary or capricious. The Board's order shall remain in effect until there is a final decision in Respondent's favor on the issue.

9. Prior to pre-registration, Respondent shall pay costs of this proceeding in the amount of two thousand and one hundred dollars (\$2,100.00). Payment of costs shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

10. This Order shall become effect upon the date of its signing.

Dated at Madison, Wisconsin this 15 day of Nov, 2009.

MEDICAL EXAMINING BOARD

By: Gene Hesse
A Member of the Board

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

CHARLES P. VACLAVIK, D.O.,

RESPONDENT.

STIPULATION
LS#0904161 MED

Division of Enforcement Case #08 MED 092, 09 MED 136

Charles P. Vaclavik, D.O., personally and by his attorney Colleen Meloy; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of two pending investigations of Respondent's licensure by the Division of Enforcement (Case Nos. 08 MED 092 and 09 MED 136). Respondent consents to the resolution of this investigation by stipulation. The parties agree that there have been no findings of any violations at this time and this stipulation and order does not constitute disciplinary action against Respondent's license. This stipulation is mutually entered into for, among other things, decreasing the further costs of the proceedings and to achieve a suitable resolution of the matter.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any provisions of state or federal law.
3. Respondent has obtained the advice of legal counsel prior to signing this stipulation.
4. Respondent's Wisconsin license registration pursuant to Wis. Stat. sec. 448.07 is due to expire on October, 31, 2009. Respondent holds an active California medical license and is employed as a full time physician in California.

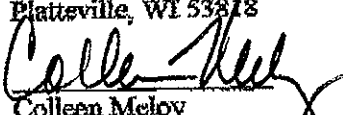
Respondent agrees not to practice medicine in the State of Wisconsin at any time from the date of this Order until October 31, 2009. On October 31, 2009, Respondent's Wisconsin license status will change from active to inactive. In the event Respondent wishes to re-register in Wisconsin after October 31, 2009, he must first petition the Board and prove, to the Board's satisfaction, his competence to practice medicine and surgery.

5. Respondent agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.
7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Medical Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
8. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.
9. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Charles P. Vaclavik, D.O.
865 Reddy Drive
Platteville, WI 53818

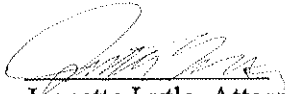
9/3/09
Date



Colleen Meloy
Attorney for Charles P. Vaclavik, D.O.

9/8/09
Date

Corneille Law Group, LLC
7618 Westward Way Suite 100
Madison, WI 53717



Jeanette Lytle, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

9/14/09

Date